

RECEIVED  
CENTRAL FAX CENTER

JUN 20 2008

**REMARKS**

Favorable reconsideration of this application is respectfully requested in view of the above amendments and following remarks. Claim 10 is amended to include subject matter from original claims 5 and 14. Claim 14 has been amended as a result of the claim 10 revisions. Claim 22 is amended to include subject matter from original claim 15. No new matter has been added. Claims 10, 11, 13-17, and 19-22 are pending.

Applicant kindly reminds the Examiner that Yamamoto et al. (US 4889229), which is applied in the current art rejections and was first cited in the Office Action mailed July 12, 2007, was incorrectly cited in the Form PTO-892 as the reference Sandish et al. (US 4889239). Applicant again respectfully requests that the Examiner issue a new PTO-892 correctly citing Yamamoto et al. Regarding Lynch et al. (US 5447229 and cited in the rejections below), Applicant also notes that the Form PTO-892 in the final Office Action does not list this reference. Applicant respectfully requests that the Examiner issue a new PTO-892 citing Lynch et al.

Turning to the current rejections, claims 10, 11, and 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Applicant respectfully traverses this rejection to the extent it is maintained.

Claim 10 has been amended to address the antecedent basis issue and to clarify the transparent or semi-transparent feature of the bottom part of the container. Applicant respectfully submits that the claims 10, 11, and 13-17 are definite.

Withdrawal of the rejection is respectfully requested.

Claims 10, 13-17, and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-141686 in view of either one of Lynch et al. (US 5447229) and Stewart et al. (US 4589547). Applicant respectfully traverses this rejection to the extent it is maintained.

Claim 10 is directed to a sensor-container combination, where a container body includes a bottom part, where the bottom part only is one of transparent and semi-transparent. As one of its advantages, the claimed invention can allow for checking the number of sensors visually from the outside without having to open or close the container, while limiting the exposure to light. The claimed invention further can help prevent the sensors from deteriorating due to oxidation caused by air or humidity brought

by air, since the number of opening and closing of the container may be reduced. (See for example page 2, lines 16-20 and page 3, lines 14-19 of Applicant's disclosure.)

The cited references, however, do not disclose or suggest the features of claim 10. For example, the cited references do not disclose or suggest at least the feature of a container having a bottom part, where only the bottom part is one of transparent and semi-transparent. JP 2001-141686 describes a sensor storage case 3, but does not disclose or suggest a container body having a bottom part, where the bottom part only is one of transparent and semi-transparent.

Lynch et al. and Stewart et al. do not remedy the deficiencies of JP 2001-141686. Lynch et al. merely describes a tube member 70 with side walls 72-78 that may be transparent (see Col. 5, lines 17-22 and Fig. 1). Thus, Lynch et al. does not disclose or suggest claim 10. As with Lynch et al., Stewart et al. also fails to disclose only a bottom part of the container body that is one of transparent and semi-transparent. Stewart et al. only describes a hollow tube 31 which may include a sidewall that is transparent (see Col. 2, lines 59-61 and Col. 9, lines 37-39). In fact, Stewart et al. provides separate end caps 33a, but does not show or describe such end caps as being transparent or semi-transparent. Thus, Stewart et al. also does not disclose or suggest claim 10. For a least the foregoing reasons, the references fail to disclose or suggest the features of claim 10 and would not arrive at the advantages that may be enjoyed by claim 10.

Claim 10 further recites that sensors include an oxidation-reduction enzyme, a mediator that mediates transfer of electrons caused by oxidation or reduction, and a detection means that detects a reaction of the oxidation or reduction. The combination of the structure for the bottom part of the container body and the sensor features can provide advantages, in which an increase in background current can be suppressed remarkably and measurements with satisfactory precision can be maintained. For example, even when a sensor using a mediator made of potassium ferricyanide having low lightfastness is stored, such excellent effects are exhibited. (See Example 1, Tables 4 and 5 of Applicant's disclosure).

The rejection appears to state that the portion of transparency is a matter of design choice. Applicant respectfully disagrees and contends that the prior art does not disclose or suggest claimed combination of sensor and container body features. Rather, it is

known to one of skill in the relevant art that a sensor having no lightfastness would not have been stored in a transparent storage container, since the measurement precision thereof would vary when a sensor is exposed to light. Moreover, even when a sensor using a mediator having lightfastness is to be stored, such a sensor would have been stored with minimized exposure to light. (See for example paragraph [0036] of JP 2001-141686, where in order to check the content in a case, a complicated display device or the like is provided, whereby the case is stored while the exposure of a sensor to light is minimized.) For at least these reasons, claim 10 is patentable over the references cited.

Regarding claim 22, the rejection appears to state that sensors having lightfastness would be a matter of obvious substitution. Applicant respectfully disagrees, and contends that the references cited do not disclose or suggest the combination of features recited in claim 22. Claim 22 is directed to a sensor-container combination having a container that is one of at least partly transparent and semi-transparent, and having sensors that include a lightfast transition metal complex that is a ruthenium complex. Claim 22 can provide advantages, where Applicant has discovered that a ruthenium complex has lightfastness, and where the combined container structure and sensors having a ruthenium complex would not degrade the sensors in the presence of oxidation by oxygen, humidity, and the like, such as when the sensors are opened for checking. Applicants respectfully submit that, other than the bare assertion that such combination of features would be obvious, the rejection does not provide any technical basis for making the combination of features recited by claim 22. Applicant respectfully contends that the prior art of record does not disclose or suggest such a combination of features in claim 22 and would not arrive at the advantages that it enjoys. For at least these reasons, claim 22 is patentable.

Favorable reconsideration and withdrawal of the rejection are respectfully requested.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 10 above, and further in view of either one of Yamamoto et al. (US 4889229) and Swain (US 3139976). Applicant respectfully traverses this rejection to the extent it is maintained.

The deficiencies of JP 2001-141686, Lynch et al., and Stewart et al. have been discussed in detail. Yamamoto et al. and Swain do not remedy the deficiencies of these

CENTRAL FAX CENTER

JUN 20 2008

references as applied to claim 10 above. For at least these reasons, claim 11 which depends upon claim 10 is patentable and the rejection should be withdrawn. Applicant is not conceding the correctness of the rejection.

Claims 13-17 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 10, and further in view of any one of Say et al. (US 6464849), Feldman et al. (US 6461496), and Say et al. (US 6175752). Applicant respectfully traverses this rejection to the extent it is maintained.

Claims 13-17 depend upon and further limit claim 10, which has been discussed above as patentable. Say et al. (US 6464849), Feldman et al. (US 6461496), and Say et al. (US 6175752) do not remedy the deficiencies of the primary references applied to claim 10 above. Thus, claims 13-17 are patentable over the references cited for at least these reasons. Applicant is not conceding the correctness of the rejection.

Regarding claim 22, Applicant respectfully submits that claim 22 has been distinguished above, and that the secondary references applied in this rejection do not remedy the deficiencies of the primary references. Claim 22 is patentable for at least these reasons. Applicant is not conceding the correctness of the rejection.

Favorable reconsideration and withdrawal of the rejection are respectfully requested.

In view of the above amendments and remarks, Applicant believes that the claims are in condition for allowance. Favorable consideration is respectfully requested in the form of a Notice of Allowance. If any questions arise concerning this communication, the Examiner is invited to contact Applicant's representative at the number listed below.



Dated: June 20, 2008

Respectfully submitted,

HAMRE, SCHUMANN, MUELLER &  
LARSON, P.C.  
P.O. Box 2902  
Minneapolis, MN 55402-0902  
(612) 455-3800

By: 

Douglas P. Mueller  
Reg. No. 30,300  
DPM/baw